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SERVICE DATE - MARCH 5, 2002

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-156 (Sub-No. 21X)]

Delaware & Hudson Railway Company—Discontinuance of Trackage Rights

Exemption—in Niagara and Erie Counties, NY

Delaware & Hudson Railway Company, d/b/a Canadian Pacific Railway (D&H), has filed a verified notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments and Discontinuances of Service and Trackage Rights to discontinue trackage rights over a 26.7+/- mile portion of trackage owned by CSX Transportation, Inc. from a point near the base of the international railway bridge at Niagara Falls, Niagara County, NY, to Buffalo, Erie County, NY (line). The line is described as the following track segments: (i) Lockport Branch—milepost 75.8+/- to milepost 70.4+/-; (ii) Niagara Branch—milepost 19.7+/- to milepost 5.6+/-; and (iii) Belt Line Branch—milepost 7.2+/- to milepost 0.0+/- . The line traverses United States Postal Service Zip Codes 14304, 14305, 14120, 14150, 14206, 14207, 14211, 14212, 14214, 14216, and 14217.

D&H has certified that: (1) no local traffic has been handled to or from any customer for at least 2 years; (2) any overhead traffic routed over the line can be and has been rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding

cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1152.50(d)(1) (notice to governmental agencies), and 49 CFR 1105.12 (newspaper publication) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under Oregon Short Line R. Co.–Abandonment–Goshen, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on April 4, 2002, unless stayed pending reconsideration. Petitions to stay¹ and formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),² must be filed by March 15, 2002. Petitions to reopen must be filed by March 25, 2002, with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to D&H's representative: Diane P. Gerth, Esq., LEONARD, STREET AND DEINARD PROFESSIONAL ASSOCIATION, 150 South Fifth Street, Suite 2300, Minneapolis,

¹ Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate. Likewise, no environmental or historical documentation is required here under 49 CFR 1105.6(c)(6).

² Each offer of financial assistance must be accompanied by the filing fee, which currently is set at \$1000. See 49 CFR 1002.2(f)(25).

MN 55402. If the verified notice contains false or misleading information, the exemption is void ab initio.

Board decisions and notices are available on our website at www.stb.dot.gov.

Decided: February 22, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams

Secretary